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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

IN RESPONSE TO PETITIONERS' WRIT OF CERTIORARI

Appellate Case No. 2026-001180

Trial Court Case No. 2019-CP-23-06363

Consolidated with Trial Court Case No.2017-CP-23-06127

Enoree Fork Baptist Church,.....Plaintiff,

v.

Sylvester Jackson, Stepping-Stones Ministries, Inc., William M. Landreth, Landreth Properties, LLC, Cordell Porter, Donald Cox, Ernest Murray, CresCom Bank/Formerly Greer State Bank, and Rodney Butler,.....Defendants,

AND

Sylvester Jackson, Karen Robinson, Michael Robinson, Dorothy Williams, John Woodfold, Ernest "Terry" Murray, Donald Cox, Timothy McBee, Derrick Cox, Reginald Jackson, Willie Foster, Cynthia Robinson, Zelma Brown, Telek Cobb, Sarah Thomason, and Thurshia Jamison-Jackson,.....Respondents,

v.

Charles "Bennie" Smith, Robin Smith, Larry Dawkins, Mable Dawkins, Jimmy Davis, Brenda Davis, Dorothy Thomason, L.C. Thomason, and James Sims,.....Petitioners

RETURN IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Respondents respectfully submit this Return in Opposition to Petitioners' Petition for Writ of Certiorari and request that the Petition be denied.

Introduction

The Petition should be denied because it does not identify any special or important reason for this Court to review the Court of Appeals' actual decision. The Court of Appeals dismissed an unperfected appeal after Petitioners failed to comply with the Appellate Court Rules and the Clerk's directive. Petitioners admit the operative facts: the transcript

was not timely authorized for production, no separate status update was filed in response to the Clerk's December 16, 2025 delinquency letter, the Record on Appeal was not filed after the transcript was delivered, no initial brief was filed, and the delay in transcript authorization was attributable to counsel's office.

Rather than show that the Court of Appeals committed legal error in dismissing the appeal under Rules 207 and 208, SCACR, Petitioners ask this Court to decide merits issues the Court of Appeals never reached: consolidation, Rule 19 joinder, ecclesiastical abstention, and jury-trial sequencing. Those questions may have been arguments in a properly perfected merits appeal. They are not grounds to grant certiorari from a procedural dismissal where the Court of Appeals did not decide them.

Petitioners' attempt to recast Enoree Fork Baptist Church's Rule 240 motion as an independent vehicle for merits review does not change the result. Rule 240 permits motions in appellate proceedings; it does not create a freestanding appeal, confer appellate jurisdiction independent of a pending appeal, excuse noncompliance with Rules 207 and 208, or require the Court of Appeals to adjudicate merits questions after the appeal in which participation was sought has been dismissed. If Enoree Fork Baptist Church contends the July 31, 2025 order is void as to the Church entity, that contention must be pursued through an appropriate procedural vehicle. It does not revive Petitioners' dismissed appeal.

For those reasons, the Petition should be denied.

Counter-Statement of Questions Presented

1. Whether certiorari should be denied where the Court of Appeals dismissed the appeal after Petitioners admittedly failed to file a required status update, failed to file the Record on Appeal, failed to file an initial brief, and failed to timely authorize production of the transcript.
2. Whether a Rule 240 motion for limited participation in a pending appeal survives the dismissal of the appeal in which participation was sought, so as to create an independent appellate proceeding or revive an otherwise dismissed appeal.
3. Whether Petitioners' merits arguments concerning consolidation, Rule 19, ecclesiastical abstention, and jury-trial sequencing warrant certiorari where the Court of Appeals did not decide those issues.

Statement of the Case and Procedural History

In 2017, Enoree Fork Baptist Church initiated civil action number 2017-CP-23-06127 in the Greenville County Court of Common Pleas. In 2019, Respondents filed civil action number 2019-CP-23-06363 seeking declaratory relief concerning church governance. By order dated February 3, 2020, the Honorable Perry H. Gravely consolidated the actions and directed that the consolidated matter proceed under civil action number 2019-CP-23-06363.

The declaratory judgment claims proceeded to a non-jury hearing before the Honorable Patrick C. Fant, III, on June 20, 2025. At the close of evidence, Petitioners moved for directed verdict, including on grounds relating to Rule 19, SCRCF, ecclesiastical abstention, and the scope of relief requested. The trial court denied the motion. On July 31, 2025, the trial court entered its Order Regarding Plaintiffs' Causes of Action for Declaratory Judgment. Petitioners filed post-judgment motions, which were denied on August 12, 2025.

Petitioners filed a Notice of Appeal on August 15, 2025. Enoree Fork Baptist Church then filed a Motion for Notice of Appearance and Limited Representation for Non-Party Church Entity under Rule 240, SCACR. The Court of Appeals granted supersedeas and directed briefing on the Rule 240 motion.

On December 16, 2025, the Clerk of the Court of Appeals issued a delinquency letter advising that the transcript should have been delivered, that no extension had been granted, and that no initial brief had been received. The letter directed a response within ten days or the appeal would be subject to dismissal. Petitioners acknowledge that no separate status update was filed in response to that letter.

Petitioners also acknowledge that the transcript request was submitted on September 15, 2025, but production did not commence at that time because counsel's office had not authorized production. The transcript was not authorized for production until December 17, 2025. The transcript was delivered on January 5, 2026. Petitioners did not thereafter file the Record on Appeal and did not file an initial brief.

On March 19, 2026, the Court of Appeals dismissed the appeal under Rules 207 and 208, SCACR, because Petitioners failed to provide the required status update and failed to file their initial brief. The Court of Appeals also stated that no further action would be taken on Enoree Fork Baptist Church's Rule 240 motion due to the dismissal of the appeal.

Petitioners moved to reinstate the appeal on March 27, 2026. Respondents opposed reinstatement. On April 22, 2026, the Court of Appeals denied reinstatement, construing the motion as a petition for rehearing and concluding that no material fact or principle of law had been overlooked or disregarded.

Petitioners now seek certiorari from the March 19, 2026 dismissal order and the April 22, 2026 order denying rehearing or reinstatement.

Argument

I. Petitioners Do Not Satisfy Rule 242 Because They Identify No Error in the Court of Appeals' Procedural Dismissal.

Certiorari from the Court of Appeals is discretionary, not a matter of right. Rule 242(b), SCACR provides that a writ of certiorari will be granted only for special and important reasons, including novel questions of law, a dissent in the Court of Appeals, conflict with a prior decision of this Court, substantial constitutional issues directly involved, or a federal question decided in conflict with the United States Supreme Court. Rule 242, SCACR.

Those considerations are absent here because the Court of Appeals did not decide the merits questions Petitioners present. The Court of Appeals dismissed the appeal because Petitioners failed to comply with the Appellate Court Rules and failed to prosecute the appeal. Petitioners do not dispute the facts supporting dismissal:

- The transcript request was submitted on September 15, 2025;
- Production did not commence in September because authorization was not provided;
- The Clerk's December 16, 2025 delinquency letter directed a response within ten days;
- No separate status update was filed in response to that letter;
- The transcript was not authorized for production until December 17, 2025;
- The transcript was delivered on January 5, 2026;
- The Record on Appeal was not filed thereafter;
- No initial brief was filed; and
- The delay in authorizing transcript production was attributable to counsel's office.

Those concessions defeat the Petition. The issue before the Court of Appeals was not whether Petitioners could formulate arguments concerning consolidation, joinder, church autonomy, or jury-trial sequencing. The issue was whether the appeal should be dismissed after Petitioners failed to comply with the rules governing appellate perfection and briefing. Petitioners identify no material fact or principle of law the Court of Appeals overlooked when it dismissed the appeal or denied reinstatement.

The claimed importance of an unbriefed merits appeal does not excuse failure to prosecute that appeal. The Appellate Court Rules exist to ensure orderly review, fair notice, efficient administration, and finality. Petitioners had the obligation to monitor the appeal, authorize transcript production, respond to the Clerk's delinquency letter, file the Record on Appeal, seek any necessary extensions, and file their initial brief. They did not do so.

Because the Court of Appeals' decision was a procedural dismissal based on admitted noncompliance, the Petition does not present a Rule 242 basis for review.

II. Rule 240 Did Not Create a Separate Appeal or Preserve Merits Review After the Appeal Was Dismissed.

Petitioners' principal effort to avoid the procedural default is to characterize Enoree Fork Baptist Church's Rule 240 motion as an independent jurisdictional proceeding that survived dismissal of the appeal. That argument should be rejected.

Rule 240 governs motions and petitions filed in an appellate court. It is a procedural rule for seeking relief within an appellate proceeding. It does not create an independent appeal, confer appellate jurisdiction where no appeal remains pending, or give a non-party greater rights than the appeal in which it seeks limited participation. Rule 240, SCACR.

The Rule 240 motion at issue sought limited participation in the appeal from the July 31, 2025 order. Once that appeal was dismissed, there was no active appeal in which Enoree Fork Baptist Church could participate. The Court of Appeals therefore acted within its

authority in declining to take further action on a motion whose function depended on the existence of the appeal itself.

Nor did the filing of the Rule 240 motion suspend Petitioners' obligations under the Appellate Court Rules. Rule 240(b) provides that, unless otherwise provided by the rules or ordered by the appellate court, the filing of a motion or petition does not stay the time limits imposed by the rules. Rule 240(b), SCACR. The Court of Appeals' order directing briefing on the Rule 240 motion did not relieve Petitioners of their separate obligation to perfect and prosecute the appeal. Petitioners still had to respond to the Clerk's delinquency letter, file the Record on Appeal, seek extensions if needed, and file their initial brief.

Petitioners' contrary position would transform a non-party motion for limited participation into a mechanism for reviving a dismissed appeal. Nothing in Rule 240 supports that result. Rule 240 permits motions in an appellate case; it does not create a freestanding appellate case for a non-party, excuse appellants' noncompliance with Rules 207 and 208, or require the Court of Appeals to adjudicate merits questions after dismissal of the appeal.

Petitioners also argue that Enoree Fork Baptist Church's Rule 240 motion raised jurisdictional objections that could not be waived by Petitioners' procedural default. But even accepting that a true jurisdictional challenge may be raised through an appropriate procedural vehicle, that does not mean a Rule 240 motion in a dismissed appeal survives as an independent appeal or requires reinstatement of Petitioners' dismissed appeal. If

Enoree Fork Baptist Church contends the July 31, 2025 order is void as to the Church entity, that contention must be pursued through a proper procedural mechanism. It does not provide a basis to disregard Petitioners' failure to prosecute their appeal.

The Court of Appeals' footnote did not decide the underlying Rule 19, personal-jurisdiction, or ecclesiastical-abstention questions. It recognized only that, because the appeal had been dismissed, no further action would be taken on a motion to appear in that appeal. That was a practical and procedurally appropriate disposition.

III. Petitioners Seek Review of Issues the Court of Appeals Did Not Decide.

Petitioners' questions concerning Rule 42 consolidation, Rule 19 joinder, ecclesiastical abstention, and jury-trial rights were not decided by the Court of Appeals. The Court of Appeals dismissed the appeal under Rules 207 and 208 and denied rehearing or reinstatement. It did not reach the merits of the trial court's July 31, 2025 order.

Certiorari from the Court of Appeals should address alleged error by the Court of Appeals. Petitioners instead ask this Court to review the trial court's merits rulings directly after Petitioners failed to perfect and brief their appeal. Granting certiorari on that basis would convert a procedural dismissal into a merits appeal and would undermine the Appellate Court Rules.

Petitioners' cited authorities may have been relevant in a properly perfected merits appeal. They do not demonstrate error in the Court of Appeals' procedural dismissal. A dismissed appeal does not create new law on Rule 42, Rule 19, the First Amendment,

Article I, Section 14, or ecclesiastical abstention. It applies the Appellate Court Rules to a defaulted appeal.

There is accordingly no Court of Appeals merits decision that conflicts with McKinney v. Greenville Ice & Fuel Co., Kennedy v. Empire State Underwriters, Knotts v. Williams, Banks v. St. Matthew Baptist Church, Baughman v. American Telephone & Telegraph Co., First-Citizens Bank & Trust Co. v. Hucks, Gardner v. Travis, or any other authority cited by Petitioners. The Court of Appeals did not decide those issues. Petitioners cannot manufacture a Rule 242 conflict by attributing to the Court of Appeals merits rulings it never made.

IV. The Petition Would Prejudice Respondents and Reward Lack of Diligence.

This litigation has been pending for years. Respondents opposed reinstatement because Petitioners failed to show good cause, diligence, or excusable neglect. The Petition confirms the lack of diligence: Petitioners did not timely authorize transcript production, did not file a status update in response to the Clerk's delinquency letter, did not file the Record on Appeal after the transcript was received, and did not file an initial brief.

Respondents are entitled to rely on the orderly enforcement of appellate deadlines. Reinstating the appeal through certiorari would reward noncompliance and prolong litigation despite Petitioners' admitted failures to comply with the rules governing appellate review.

The requested relief would also create a harmful precedent. Any appellant who failed to perfect an appeal could attempt to avoid dismissal by asserting that the unbriefed merits

issues were important or constitutional. Rule 242 does not exist to rescue defaulted appeals on that basis. The proper inquiry is whether the Court of Appeals committed review-worthy error in the decision under review. Petitioners have not shown that it did.

Response to Petitioners' Questions Presented

Question 1: Rule 240 Motion

The Court of Appeals did not err by declining to take further action on Enoree Fork Baptist Church's Rule 240 motion after dismissing the appeal. The Rule 240 motion sought limited participation in the appeal. Once the appeal was dismissed under Rules 207 and 208, there was no active appeal in which the Church could make a limited appearance.

Rule 240 does not independently preserve a dismissed appeal, create a new appeal for a non-party, or require adjudication of merits issues after procedural default. Nor did the Rule 240 motion stay Petitioners' obligations to perfect and prosecute the appeal. Petitioners' failure to comply with the Appellate Court Rules cannot be avoided by characterizing the Rule 240 motion as a separate jurisdictional proceeding.

If Enoree Fork Baptist Church contends that the July 31, 2025 order is void as to the Church entity, that contention must be pursued through an appropriate procedural vehicle. It is not a basis to revive Petitioners' dismissed appeal or to grant certiorari from the Court of Appeals' procedural dismissal.

Question 2: Consolidation Under Rule 42

The consolidation question was not decided by the Court of Appeals and is not a basis for certiorari from the dismissal order. Petitioners' argument that the trial court misapplied Rule 42 and treated the actions as merged rather than consolidated may have been a merits argument in a properly perfected appeal. But Petitioners did not perfect and brief that appeal.

The Court of Appeals' dismissal does not conflict with *McKinney v. Greenville Ice & Fuel Co.* or *Kennedy v. Empire State Underwriters* because the Court of Appeals did not decide the consolidation issue. There is no Court of Appeals ruling on consolidation for this Court to review.

Question 3: Rule 19 and Non-Party Binding Effect

Petitioners' Rule 19 issue likewise was not decided by the Court of Appeals. Petitioners argue that Enoree Fork Baptist Church was indispensable and that the July 31, 2025 order affected the Church. Those arguments go to the merits of the trial court's order, not the propriety of dismissal under Rules 207 and 208.

Petitioners cannot use certiorari to obtain merits review of issues they failed to present through a perfected appeal. Nor can the pending Rule 240 motion be transformed into a substitute for a notice of appeal, a timely Record on Appeal, an initial brief, or compliance with the Clerk's directives.

Question 4: Ecclesiastical Abstention

The Court of Appeals did not decide whether the trial court's order violated the First Amendment, Article I, Section 2 of the South Carolina Constitution, or the ecclesiastical-abstention doctrine. Petitioners' invocation of church-autonomy authorities does not cure their procedural default.

Because the Court of Appeals did not reach the ecclesiastical-abstention issue, there is no Court of Appeals constitutional holding for this Court to correct. Petitioners ask this Court to decide the merits in the first instance after the appeal was dismissed. That is not an appropriate use of certiorari.

Question 5: Jury-Trial Rights

The Court of Appeals did not decide any Article I, Section 14 jury-trial issue. Petitioners' jury-trial argument concerns the sequencing and effect of the trial court's bench proceeding on allegedly intertwined legal and equitable issues. That argument was not reached because Petitioners did not comply with the Appellate Court Rules.

The issue before this Court is not whether Petitioners could have asserted a jury-trial argument in a properly prosecuted appeal. The issue is whether the Court of Appeals erred in dismissing an appeal after Petitioners failed to prosecute it. Petitioners have not shown such error.

Conclusion

The Petition should be denied. Petitioners do not identify legal error in the Court of Appeals' dismissal under Rules 207 and 208, SCACR, or in the Court of Appeals' denial of rehearing or reinstatement. Instead, they seek merits review of issues the Court of Appeals never reached.

Rule 240 does not create an independent appeal, does not excuse Petitioners' procedural default, and does not require the Court of Appeals to adjudicate merits questions after dismissal of the appeal in which limited participation was sought. Petitioners' consolidation, Rule 19, ecclesiastical-abstention, and jury-trial arguments do not provide a basis for certiorari from a procedural dismissal.

For the foregoing reasons, Respondents respectfully request that this Court deny the Petition for Writ of Certiorari and grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

This the 15th day of June, 2026.

KING LAW OFFICES, PC

s/ Rustin B. Duncan

Rustin B. Duncan (SC Bar # 81465)

Attorneys for Respondents

King Law Office, PC

955 W Wade Hampton Blvd, Ste 8A

Greer, SC 29650

(864) 877-3355

(828) 286-1110 (fax)